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RUCNRAQ/IRAQ COLLECTIVE PRIORITY

C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 003066

SIPDIS

E.O. 12958: DECL: 11/22/2019

TAGS: [PGOV](#) [KDEM](#) [I2](#)

SUBJECT: IRAQI MPS OFFER DEAL TO VP HASHIMI FOR WITHDRAWAL
OF ELECTION LAW VETO

REF: A. BAGHDAD 3059

[1](#)B. BAGHDAD 3053

[1](#)C. BAGHDAD 3045

Classified By: Political Counselor Yuri Kim for Reasons 1.4 (b, d)

[1](#)1. (C) SUMMARY: Shia and Sunni bloc leaders have submitted a letter to Vice President Hashimi requesting that he withdraw his veto of the amended election law in exchange for a promise that the Independent High Electoral Commission (IHEC) will treat out-of-country voters as they do those in-country by counting OCV votes toward governorates. UNAMI Acting SRSG told us that the arrangement is workable. Key Sunni leaders told the Ambassador they are advising Hashimi to accept the deal. Even as we maintain pressure on Hashimi, we will also need to work with the Kurds to ensure that their concerns over the distribution of seats will not be stumbling block to an agreement on the veto withdrawal. Deputy Speaker Attiya, Sunni bloc leader Saleh al-Mutlaq, and others believe that Hashimi is inclined to withdraw his veto pending a meeting of experts tomorrow (November 23) morning to discuss details of implementation. They believe, however, that it will be necessary to postpone the election until late February, possibly as late as March 1, in order to ensure enough time to prepare credible and legitimate national elections. END SUMMARY.

A NEW SHIA-KURDISH PROPOSAL

[1](#)2. (C) As the election law veto impasse dragged on another day, Poloffs again canvassed the Iraqi Council of Representatives (COR) on November 22 to facilitate a solution. In a morning meeting with PolCouns, Hadi al-Amiri (Badr chief) stated that while Shia MPs still wanted to reject Hashimi's veto out of anger (i.e., vote to reaffirm the November 8 election law amendments), many had realized that such a development would fan the flames of sectarianism and that it therefore would be more responsible to find a reasonable compromise for all sides. The latest version of a joint Kurdish-Shia proposal (ref A), he explained, would preclude a rejection of Hashimi's veto and further amend the law to guarantee that the votes of expatriate Iraqis would be treated "equally" to voters within Iraq. According to al-Amiri, the amendment would retain the number of compensatory seats at five percent of total COR seats, but draw the eight minority set-aside seats from seats allocated to the governorates. Out-of-country voting (OCV) would not be applied towards compensatory seats. Rather, ballots cast by out-of-country and domestic voters would count toward the same governorate seats with national identification records being used to check that out-of-country voters were properly qualified to vote for candidates in their claimed "home" governorates.

[1](#)3. (C) As for the size of the COR, Amiri explained that instead of using the current Ministry of Trade (MOT) statistics for the population of Iraq, the proposed amendment would mandate the use of 2005 statistics from the food ration

card system (also generated by the MOT) as a baseline to determine the population per governorate. A natural growth rate of approximately 2.8 percent per year would then be evenly applied across all governorates to account for the increase in Iraq's population between 2005 and 2009. This provision, al-Amiri noted, was critical to the Kurds as it would preserve the percentage of seats they control in the current COR.

MORE DISUNITY IN THE COR

¶4. (C) Meanwhile, in a meeting the same morning with Sunni hardliner MP Saleh al-Mutlaq (Iraqi National Movement), Qhardliner MP Saleh al-Mutlaq (Iraqi National Movement), PolCouns noted that the Shia and Kurds were moving toward securing enough votes to not only "veto the veto" but to put in place an amendment that mainly favored the Kurds. PolCouns strongly suggested that it was time for the Sunnis to consider a withdrawal of Hashimi's veto in order to preclude legislative action that would bring this unintended result. Backed by MP Mohammed al-Tamim, Mutlaq dismissed the possibility of a withdrawal of the veto, rather declaring that inclusion in any amendment of the Kurdish reallocation formula would cause the Sunni parties to resurrect the controversy over Kirkuk voting procedures, because it would underestimate the current population of Kirkuk by 200,000 and result in the loss of two Kirkuk seats.

¶5. (C) With a consensus agreement still elusive, Speaker Samarraie convened the COR at 11:50 a.m. with only 20 MPs present in the chamber and no mention of the election law. An hour later, 75 MPs were in the chamber killing time in a

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prolonged discussion on the H1N1 flu virus while bloc leaders continued negotiations. After moving back and forth between the COR session and bloc leader meetings, Samarraie adjourned the session at 3:25 p.m.

BREAKING THE LOGJAM

¶6. (C) Concerned by the apparent lack of progress in the COR and the possible further expansion of the debate, the Ambassador went to the Iraqi Parliament in the afternoon to push the parties towards a consensus solution. In separate meetings with Deputy Speaker Khalid Attiya (Shia Independent), Deputy Speaker Arif Tayfour (KDP), Amiri (Badr/INA), Adnan Pachachi (Iraqi National Movement - Sunni), and Mutlaq (INM), the Ambassador pressed for adoption of a non-legislative technical fix that would provide greater weight to OCV (ref B). He found a willing ally in Amiri, who revealed that there was now growing momentum among Shia MPs, who realized that alienating the Sunnis was not in their interest, to refrain from rejecting the veto and instead offer Hashimi a technical fix that would address his concern over OCV. Amiri told the Ambassador that he had secured agreement from several major coalitions to send a letter to Hashimi asking him to withdraw his veto in exchange for IHEC regulations that would add OCV ballots to those cast domestically in the home governorate of each expatriate voter (vice applying OCV results towards compensatory seats). Amiri indicated that the two Shia-dominated Iraqi National Alliance (INA) and PM Maliki's State of Law Alliance (SLA) had signed on, as had Sunni MPs from the Iraqi Islamic Party (IIP).

¶7. (C) The Ambassador then met with Mutlaq to encourage him to support a withdrawal of the veto in accordance with the letter drafted by Amiri, stressing that the proposed technical fix was the best way forward for Sunnis MPs blocs. Rejecting such a proposal, he pointed out, would likely ensure a new legislative amendment that would disadvantage Sunni interests. Reluctantly acknowledging this point, Mutlaq, holding the letter in his hand, said he had some

concerns about the proposal. That said, he understood that this might be the best, and only, dignified way out and said he would discuss the letter with Hashimi before making a recommendation to the VP on withdrawing his veto. Mutlaq added that late February or early March would be a suitable window for a new election day. (NOTE: SRSG Melkert today stated publicly in New York that the elections will not be able to take place earlier than February. The Shia religious festival of Arba'een precludes an election at the end of January or first part of February. While the Federal Supreme Court did rule that the Iraqi constitution requires national elections in January, this was a non-binding advisory opinion, with countering legal arguments. END NOTE.)

18. (C) Amiri and, separately, Attiya emphasized that it would be very difficult to persuade the Kurds to drop their demand for a legislative amendment to alter the allocation of COR seats. (NOTE: Deputy Speaker Arif Tayfour had told the Ambassador minutes earlier that the Kurds wanted help to reach a compromise, but that they considered the 2009 MOT statistics unfair. END NOTE.) Amiri and Attiya asked the Ambassador for U.S. intervention with the Kurdish leadership to ensure the success of the veto withdrawal plan and to have President Talabani sign a Presidency Council decree setting an electoral date.

19. (C) We learned that toward evening, Samarraie's office had forwarded the letter to Hashimi's office. Krikor Qforwarded the letter to Hashimi's office. Krikor Der-Hagopian, Hashimi's Director General, confirmed to Poloff that the Iraqi VP received the letter from bloc party leaders. He reported that while Hashimi was amenable to the proposal in principle, he and his legal advisor were concerned that the implementation of OCV will be difficult because not all expatriate voters have identification to confirm their home governorates, and worried that these votes might thus be invalidated. He asked whether the U.S. "out of country reserve seat option" (ref B) could be used as a back-up should the "direct voting" option prove unworkable. Der-Hagopian added that Hashimi would be meeting with his coalition partners at 8:00 p.m. local time this evening to confer further.

UNAMI ON BOARD

10. (C) Briefed in the evening on the state of play, Deputy SRSG Gilmour told PolCouns that UNAMI was prepared to tell Hashimi that it would be possible to implement a plan in which OCV votes would be counted toward home governorates. Gilmour said UNAMI and IHEC experts would be meeting with

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Hashimi's legal advisor and the COR's Legal Committee the following morning to discuss implementation of the proposal.
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